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C O N F I D E N T I A L ANKARA 000316

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 01/16/2014

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)

SUBJECT: JUDGE IN ZANA CASE BARS AUDIENCE MEMBERS FROM NEXT SESSION

REF: 03 ANKARA 6570 AND PREVIOUS

Classified by Polcouns John Kunstadter; reasons 1.5 b and d.

11. (U) An angry judge ordered that members of the audience attending the retrial of Leyla Zana and three other Kurdish former MPs January 16 be banned from the next hearing for applauding the defendants. The incident occurred after the Ankara State Security Court (SSC) refused, for the tenth consecutive time, a defense request for the release of the defendants pending the outcome of the retrial.

12. (U) The defendants -- Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak -- are former MPs from the pro-Kurdish independence Democracy Party. They were convicted in a controversial 1994 trial of membership in an illegal organization (the PKK). At each of the 10 hearings of the retrial, which began in March 2003, the three-judge SSC panel has refused a defense request for their release. This time, however, the audience, mostly comprising relatives and supporters of the defendants, broke out in applause in a show of moral support when the court announced its decision. The chief judge ordered security officials to take the names of all those in attendance, with the exception of the foreigners in the first three rows (who did not applaud), and said they will be denied entrance at the next hearing, set for February 20. All attendees are required to leave identification with security officials upon entering the courtroom.

13. (U) The court decision followed a dramatic plea by lead defense attorney Yusuf Alatas for the defendants' release. Alatas noted that, following their 1994 conviction, the defendants won their appeal to the European Court of Human Rights (ECHR). In March 2003, they were granted a retrial, the first such retrial approved under a recent EU-related reform allowing Turkish convicts who win an ECHR appeal to receive a new trial in a Turkish court. Alatas chastised the judges for referring to the defendants throughout the retrial as "convicts," arguing that they should be considered "arrestees" in light of the ECHR ruling that their original trial was improper. The retrial is a landmark case that will set an example for the judiciary, and the court should therefore conduct itself in a more professional, impartial manner. As in past hearings (reftels) Alatas accused the judges of bias, claiming that their refusal to release the defendants indicates that they have assumed their guilt from the beginning.

Comment

14. (C) This retrial is probably nearing conclusion. However, the process will continue, as the losing side is certain to appeal. Based on our first-hand observations of the court's conduct, we think the court has been biased against the defense, and we anticipate a conviction. Our contacts continue to predict that at the next trial an appeals court will convict them again and sentence them to time served, releasing them slightly before 2005, when their original prison terms are set to expire in any case.
EDELMAN